



FILED
DEC 21 2010
DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
BY DEP CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

EDDIE COOPER
VS.
SMITHFIELD PACKING, INC

NO. 5:10-cv-479-F
COMPLAINT

1. Plaintiff resides at 502 MOSBY ST
WILSON, NORTH CAROLINA 27893

2. Defendant(s)' name(s) SMITHFIELD PACKING, INC
2401 WILCO BLVD
WILSON, NORTH CAROLINA 27893

Location of principal office(s) of the named defendant(s):
2401 WILCO BLVD
WILSON, NC 27893

Nature of defendant(s)' business: MEAT PACKING COMPANY

Approximate number of individuals employed by defendant:

600

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. § 2000e-5.

Equitable and other relief are also sought under 42 U.S.C. § 20003-5(g).

4. The acts complained of in this suit concern:

- (A) _____ Failure to employ me.
- (B) Termination of my employment.
- (C) _____ Failure to promote me.
- (D) _____ Other acts as specified below:

RACIAL DISCRIMINATION

UNFAIR LABOR PRACTICES

VIOLATION OF FEDERAL & STATE LAWS AS REGARDS
EMPLOYMENT

5. Plaintiff is:

- (A) NOT presently employed by the defendant.
- (B) not presently employed by the defendant.

The dates of his employment were 09/22/06

02/23/09 Employment was terminated

because:

- (1) plaintiff was discharged.
- (2) _____ plaintiff was laid off.
- (3) _____ plaintiff left job voluntarily.

6. Defendant(s)' conduct is discriminatory with respect to the following:

- (A) my race.
- (B) my religion.
- (C) my sex.
- (D) my national origin.
- (E) other as specified below:

7. The name(s), race, sex, and the position or title of the individual(s) who allegedly discriminated against me during the period of my employment with the defendant company is (are)

PHIL PRICE - (PLANT MGR)
LUTHER HARDISON (SUPVR)
LINWOOD BATTLE (SUPVR)
KIM BRIGGS (NURSE)
SEAN KEISHER (PLANT SUPERINTENDANT)
JAMES MEACHIN (SUPVR)

8. The alleged discrimination occurred on or about

APRIL 2007 / SEPTEMBER 2008 / NOVEMBER 2008 / DEC 5 2008
1st 2nd 3rd 4th OFFENSE
DEFECATED ON CAUCASIAN WOMAN REFUSED TO PROVIDE NO
SELF GIVEN LIGHT DUTY ME MEDICAL TREATMENT LIGHT DUT
WASN'T ALLOWED TO GO TO BATHROOM 3rd LOT OFF INS.
FEB. 2009

5th OFFENSE — TERMINATED FOR UNION PARTICIPATION

9. The nature of my complaint, i.e. the manner in which the individual(s) named above discriminated against me in terms of the conditions of my employment is as follows:

PROVIDED LIGHT DUTY TO CAUCASIAN (TRACY SANFORD)
BUT DID NOT AFFORD ME THE SAME OPPORTUNITY

WOULD NOT ALLOW ME TO GO TO BATHROOM AND CAUSED
ME TO DEFECATE ON MYSELF ON THE LINE

PREVENTED ME FROM RECEIVING FAIR TREATMENT WHEN
I BECAME INJURED AND FORCED ME TO WORK EVEN
WHEN I HAD A DOCTOR'S NOTE FOR ONLY LIGHT DUTY THEN
REVOKE MY INSURANCE WHILE I WAS OUT ON
FMLA.

MY TERMINATION WAS A RETALITORY ACT FOR MY
INVOLVEMENT FOR SEEKING A UNION SHOP.

10. The alleged illegal activity took place at:

2401 WILSON, NC 27893

11. I filed charges with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on or about ? SEE EEOC NO 433-2009 01943 I have attached a copy of the Notice-of-Right-to-Sue letter issued by the Equal Employment

Opportunity Commission.. This letter was received by me on

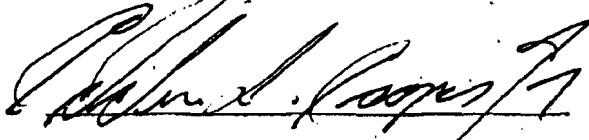
12. I seek the following relief:

(A) recovery of back pay;
(B) reinstatement to my former job;
(C) trial by jury on all issues so triable;

and any other relief as may be appropriate, including
injunctive orders, damages, costs and attorney's fees.

11/3/2010

DATE



SIGNATURE OF PLAINTIFF

502 MOSBY ST.
WILSON, NC 27893
(252) 234-6245

ADDRESS AND PHONE NUMBER OF PLAINTIFF

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Edna Cooper**
502 Morris Street
Wilson, NC 27893

From: **Raleigh Area Office**
1300 Annapolis Drive
Raleigh, NC 27608

**On behalf of myself/On behalf of those whose identity is
CONFIDENTIAL (check one or both)**

EEOC Case No.:

Telephone No.:

EEOC File No.:

Name(s) - Chairman:

422-000000000000

(919) 856-4094

THE COMMISSION IS DISMISSING THIS CHARGE FOR THE FOLLOWING REASON:

THE CHARGE IS DISMISSED BECAUSE IT IS OUT OF THE STATUTE OF LIMITATIONS OR THE STATUTE OF LIMITATIONS HAS EXPIRED.

YOU ARE AN INDIVIDUAL WITH A DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT.

THE CHARGE IS DISMISSED BECAUSE IT INVOLVES AN EMPLOYER WITH LESS THAN THE REQUIRED NUMBER OF EMPLOYEES OR IS NOT OTHERWISE COVERED BY THE STATUTES.

YOU HAVE NOT BEEN IN CONTACT WITH EEOC. In other words, you waited too long after the time(s) of the alleged discrimination to file your charge.

THE CHARGE IS DISMISSED BECAUSE IT IS BASED UPON AN ALLEGATION THAT THE EEOC IS UNABLE TO PROVE THAT THE CHARGE IS IN COMPLIANCE WITH THE STATUTES. This does not mean that the requirement is in compliance with the statute, but only that the EEOC is unable to prove that might be considered as having been raised by this charge.

THE CHARGE IS DISMISSED BECAUSE IT INVOLVES AN EMPLOYER WHICH HAS NOT BEEN IDENTIFIED OR IS UNKNOWN.

OTHER (EXPLAIN):

- NOTICE OF SUIT RIGHTS -
(Read the following information attached to this form.)

DISMISSAL OF CHARGE - If you file a civil suit based on this charge, you will have 90 days from the date of this letter to file your suit. You will also have 90 days from the date of this letter to file a motion for a preliminary injunction based on this charge in federal or state court. Your right to sue based on this charge will be lost if you do not file a suit or motion for a preliminary injunction within 90 days from the date of this letter. (This is different from the time limit for filing a charge.)

DISMISSAL OF CHARGE - You have 1 year (2 years for willful violation) of the time period from the date of this letter to file a civil suit based on this charge. (This is different from the time limit for filing a charge.)

On behalf of the Commission:

8-20-10
(Date Received)

(Date Received)

Enclosure(s)

Director, Civil Rights
Division

CC:

W. E. COOPER

Robert - Borkov
LAW OFFICES OF
1770 K STREET NW
Washington, DC 20006



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Raleigh Area Office**

1309 Annapolis Drive
Raleigh, NC 27608-2129

Intake Information Group: (800) 669-4000

Intake Information Group TTY: (800) 669-6820

Raleigh Status Line: (866) 408-8075

Direct Dial: (919) 856-4075

TTY (919) 856-4296

FAX (919) 856-4151

Website: www.eeoc.gov

August 6, 2010

Eddie Cooper
502 Mosby Street
Wilson, NC 27893

Re: Cooper versus SMITHFIELD PACKING
EEOC Charge No.: 433-2009-01943

Dear Mr. Cooper:

The processing of your charge of employment discrimination in the above referenced matter has been completed. The Equal Employment Opportunity Commission (EEOC) is dismissing your charge and is issuing to you a Notice of Right to Sue.

Regarding your allegations that you were denied a reasonable accommodation because of your race, color, sex, and disability were not timely filed. In other words, you waited too long after the dates of the alleged discrimination to file your charge.

The evidence is insufficient to establish that the Respondent retaliated against you for opposing an unlawful employment practice that the Commission enforces. Engaging in Union activity is not sufficient to establish retaliation under Title VII of the Civil Rights Act of 1964, as amended.

In view of these facts, it is unlikely that further investigation of your charge will result in a finding that a violation of the law(s) under which you filed your charge has occurred. For that reason, we have dismissed your charge and closed your file.

Enclosed you will find a Dismissal Notice of Right to Sue and an Information Sheet which describes your right to pursue the matter in court by filing a lawsuit within 90 days of your receipt of the dismissal notice. This 90-day period for filing a private lawsuit cannot be waived, extended or restored by EEOC.

I regret that we cannot be of further assistance to you in this matter.

Sincerely,

Nancy Chapman,

Nancy L. Chapman
Investigator
Investigator

Enclosures

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 80 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.